

## Chapter 14

### BOATS AND WATERWAYS\*

\* **Cross References:** Beach regulations generally, § 50-1; parks and recreation, ch. 54.  
**State Law References:** Waters and navigation, G.L. 1956, title 46.

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Comment [D1]: Addition

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Comment [D2]: Addition

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*Fairway* means any water area reserved for the unobstructed movement of a vessel to or from a channel and within the harbor.

*Illegal Mooring* means a Mooring placed in town waters without authorization of the Harbormaster. A Mooring and or its tackle not properly identified (mooring # and weight) or maintained will also be classified as an "Illegal Mooring".

*Mooring* means a semi permanent single point anchorage installation. **Mooring should be limited to one vessel per mooring. This does not apply to dinghy's and or tenders that are used for transportation from shore to and from the moored vessel and transients with occupants aboard.**

Comment [DEV3]: Recommended addition

*Mooring location* means a site within the town waters authorized by the harbormaster for the placement of a mooring.

*Mooring permit* means the license granted on an annual basis by the Tiverton Harbor and Coastal Waters Management Commission to place a mooring in the waters of the town.

*Outhaul*: Defined as a non-single-point anchoring device, for the purpose of securing a boat in tidal waters and retrieving it from shore

Comment [DEV4]: Recommended addition

*Private mooring* means any mooring registered to a boat owner of record and used exclusively for his recreational purposes.

*Pulley lines (Outhauls)*: means for dinghies, tenders, shallow draft sailboats and work skiffs and shall not be considered as moorings for riparian owners and others with access. Resident riparian owners and non-riparian town residents will not be charged for the permit. Non-residents will be charged a non-resident fee. All pulley lines must be registered each year. Nonresident mooring holders may use pulley lines only for dinghies or tenders with the appropriate permit and fee. They must have written authorized access for their use from the riparian property owner.

Comment [DEV5]: Delete and replaced by Outhauls above and section 14-117

*Resident* means any person who is an elector, real estate taxpayer or resident of the town in accordance with this Code.

*Riparian moorings* means the riparian owner shall be allowed a minimum of one mooring. However, riparian owners may be granted up to four moorings. These moorings may only be used by immediate family members (father, mother and their legal children). The following guidelines shall apply for each additional mooring requested:

- (1) Each field of an individual single point mooring shall equal a circular area with a 50-foot diameter or the length of the vessel plus three times the water depth, whichever is greater. **The Harbor Commission reserves the right to amend this definition, as situation (s) dictate**
- (2) Single-point mooring areas shall be contained within a ten-foot setback from and

Comment [DEV6]: Recommended addition

within the applicant riparian lines and far enough offshore to keep noise disturbance to other shore owners and other vessels within reasonable limits.

- (3) Riparian mooring owners are subject to all relevant mooring regulations.

*Riparian owner* means the owner of land located on the bank or shore of a natural watercourse, lake or tidewater.

***Riparian Rights:* The rights associated with coastal waterfront property ownership regarding access to tidal waters.**

Comment [DEV7]: Recommended addition

*T.H.C.W.M.C.* means Tiverton Harbor and Coastal Waters Management Commission; also known as the commission.

*Transient anchorage* means any area reserved for the exclusive short term use of commercial and recreational vessels and any vessels seeking shelter.

*Transient mooring* means a mooring reserved and designated by a commercial mooring operator or the town for short-term use (no more than seven consecutive days) by a person who does not usually lease or maintain a mooring within the town waters.

*Vessel* means watercraft, other than a seaplane, used or capable of being used as a means of transportation on water.

(Code 1967, § 13-9)

**Cross References:** Definitions generally, § 1-2.

**Secs. 14-27--14-40. Reserved.**

## **DIVISION 2.**

### **HARBORMASTER\***

\* **Cross References:** Officers and employees, § 2-41 et seq.

#### **Sec. 14-41. Responsibilities; authority.**

The harbormaster will be viewed as the enforcement arm of the T.H.C.W.M.C. and will act to enforce decisions made by the commission and report to the commission at each monthly meeting.

(Code 1967, § 13-71)

#### **Sec. 14-42. Appointment; compensation.**

The harbormaster is a salaried, year round, and council annually appointed position. Recommendations for harbormaster shall be submitted to the council by October of each year by the T.H.C.W.M.C. When a new harbormaster is to be appointed, the selection process shall comply with the provisions of the Town Charter concerning the hiring of municipal employees. The Chairman or a member of The Commission, as designated by the Chairman of the Harbor

Commission, shall be invited to the Harbormaster interview. After the Personnel Board has chosen their top three applicants The Commission shall make a written recommendation and with appropriate commentary designed to assist the Town Council with their choice for Harbormaster. The harbormaster is responsible for implementing and enforcing T.H.C.W.M.C.'s decisions and policies. Salary for the harbormaster shall be part of the annual budget request for the harbormaster's office. The term of the harbormaster appointment shall be on a calendar year from January 1 to December 31. **[The Town Administrator is required to solicit on an annual basis a review from the Harbor Commission concerning the current Harbor Master before the Town Council re-appoints him/her to the position.]**

Comment [DEV8]: Recommended addition

(Code 1967, § 13-7-2; Ord. of 3-13-00)

**Sec. 14-43. Enforcement authority; responsibilities.**

The harbormaster shall have the authority to enforce the Tiverton Harbor and Coastal Waters Management Plan Articles, regulations and decisions of the T.H.C.W.M.C. and any laws/ordinances passed by the council, the state and the U.S. government consistent with the authority contained under such ordinances and laws. He will be expected to develop good working relationships with other town departments and promote community goodwill and boating safety with other neighboring cities and towns. He is responsible for the inspection and maintenance of all equipment used by his staff. Further, the harbormaster is responsible for all recordkeeping and cash handling in accordance with federal, state and town procedures.

(Code 1967, § 13-7-3)

**Sec. 14-44. Additional duties.**

The harbormaster shall supervise the activity of an assistant harbormaster as well as others which he may recruit to assist him. He will assist the T.H.C.W.M.C. in the development of new water related facilities and advise concerning the effective overall management of the coastal waters of the town. The harbormaster will prepare an annual budget for his staff and equipment to be reviewed by the commission at least two months prior to discussions with the budget committee of the town.

(Code 1967, § 13-7-4)

**Sec. 14-45. Patrol boat operator qualification review**

The Towns Harbor Patrol Boat will not be used by anyone without the operator first meeting the following qualifications. Also the operator must show competency to the Harbormaster at the Harbormaster's convenience. Any trainees (Harbor Patrol, Fire, or Police Department) must be in the presence of Harbormaster or his approved designee while at the helm. Fire department personnel that have been approved can operate the vessel alone. All trainees must satisfactorily, to the harbormaster or his designee, demonstrate the Following abilities

- Knowledge of Tiverton Harbor Management Plan and Municipal Code
- Ability to handle stressful situations
- Get underway
- Approach vessels and objects
- Operate under normal conditions
- Radio communications including Security (SAY-CURE-IT-TAY)

- Dock vessel
- Secure and make fast
- Complete reports and logs
- Tow with a Hauser and also from the Hip (setup lines for proper towing )
- Be able to direct and stop boaters and write citations without feeling intimidation
- Ability to use S.T.A.R. (Stop, Think, Act, Review) to assess the every situation
- The following certifications are required
  - Rhode Island Boating Safety Training at the minimum (not an on line course)
  - C.P.R.
  - First Aid
- The following certifications are encouraged but not required
  - U.S.C.G. Masters or O.U.P.V. 6 Pack
  - U.S.C.G. Towing Endorsement
  - A.E.D.
  - O2 Administration
  - E.M.T.
  - Paramedic
  - Hazmat
  - S.C.U.B.A.
  -

**Sec. 14-46. Pump-out boat operator qualification review**

The Towns Pump-out Boat will not be used by anyone without the operator first meeting the following qualifications. Also the operator must show competency to the Harbormaster at the Harbormaster's convenience. Any trainees must be in the presence of Harbormaster or his approved designee while at the helm.

All trainees must satisfactorily, to the harbormaster or his designee, demonstrate the Following abilities

- Ability to handle stressful situations
- Get underway
- Approach vessels and objects
- Operate under normal conditions
- Dock vessel
- Secure and make fast
- Complete reports and logs
- Ability to use S.T.A.R. (Stop, Think, Act, Review) to assess the every situation
- The following certifications are required
  - Rhode Island Boating Safety Training at the minimum (not an on line course)

- C.P.R.
- First Aid

Comment [DEV9]: Recommended addition

**Secs. 14-47--14-60. Reserved.**

### **DIVISION 3.**

#### **TIVERTON HARBOR AND COASTAL WATERS MANAGEMENT COMMISSION\***

\* **Charter References:** Tiverton harbor and coastal waters management commission, § 1008.  
**Cross References:** Boards, commissions and committees, § 2-56 et seq.

#### **Sec. 14-61. Creation; scope of responsibility and authority.**

There is hereby created a harbor and coastal waters management commission. The commission has the responsibility and the authority to make recommendations to the council, and other local boards and commissions as may be appropriate, on all issues relating to the planning and management of the coastal waters of the town. These shall include, but not necessarily be limited to, fees, operating budgets, staffing limits, coastal area construction and development projects and regulation. The commission shall also, with the approval of the council, have the authority to adopt any additional regulations which may be necessary to fulfill the goals of this article.  
 (Code 1967, § 13-6-1)

#### **Sec. 14-62. Composition; primary duty.**

The T.H.C.W.M.C. shall consist of 9 members, appointed by the council, chosen from a list of interested parties maintained by the town clerk after duly publicizing the availability of these positions. The commission shall examine the state of the waters of the town and make recommendations so that this article can manage them into the future.  
 (Code 1967, § 13-6-2)

Comment [DEV10]: To match town charter

#### **Sec. 14-63. Representation of area interests.**

The membership of the T.H.C.W.M.C. shall represent specific areas of interest within the town. There shall be one member representing each of the following special interests: Recreational boaters, commercial boaters, recreational fishermen, commercial fishermen, riparian property owners, conservationists, council, town planning board and ~~three members representing taxpayers at large.~~  
 (Code 1967, § 13-6-3)

Comment [DEV11]: To match town charter

#### **Sec. 14-64. Terms; vacancies; meetings.**

Commission members shall be appointed for overlapping two-year terms so that four members will be replaced one year and five the following year. In the event of resignation during a term, the council shall appoint a new member of the same interest group to fill the remainder of the term. A chairperson, vice-chairperson and secretary shall be elected by the members of the commission. The commission shall meet at the request of the chairperson, council or harbormaster.  
 (Code 1967, § 13-6-4)

- (4) Name of individual and/or company placing and inspecting the ground tackle (if owner, so indicate).
- (5) Type of head, if any, on board.
- (6) Access to mooring (nonriparian owners must provide a document from the owner of shore property being used for access to the mooring). Authorized local access and a legal parking area is required.
- (7) Priority of applicant according to the schedule set forth in section 14-107.  
(Code 1967, § 13-11-6)

**Sec. 14-107. Priority of mooring location assignments.**

The system for mooring assignments' priority shall be as follows:

- (1) Owner of riparian right--mooring abuts frontage . . . . . exempt
- (2) Town resident commercial vessel mooring . . . . . 6 points
- (3) Town resident recreational vessel mooring . . . . . 5 points
- (4) Town resident with commercial rental mooring . . . . . 4 points
- (5) Town resident, supplemental mooring (family) . . . . . 3 points
- (6) Nonresident commercial vessel mooring . . . . . 2 points
- (7) Nonresident recreational vessel mooring . . . . . 1 point

It is the town's objective to ensure that non-residents of Tiverton have access to moorings within the town of Tiverton. To achieve this objective the town will commit to achieve the CRMC recommended 3:1 ratio of resident to non-resident moorings. This objective may supersede the current point system.

(Code 1967, § 13-11-7)

**Comment [D12]:** Addition to match CRMC red book

**Sec. 14-108. Applications for private moorings; required contents.**

Applications for private moorings must include evidence of ownership or lease of the vessel to be moored. Further, a state license or federal documentation papers must be on file for each vessel. Only the indicated vessel may be moored on the designated tackle. As is customary in this region, short term exceptions to this rule may be arranged with the harbormaster on a case-by-case basis. Private moorings which are rented to vessels other than that for which they are designated will be regarded as commercial moorings, subject to all fees and limitations that are placed on such moorings in town waters. Such moorings may be removed as needed to restore the balance of commercial/private moorings. This ratio is set at three commercial moorings to every ten privately owned moorings per mooring area. Privately owned moorings

**Sec. 14-114. Illegal moorings.**

Illegal moorings will be tagged by the Harbormaster. It is the owner's responsibility to contact the Harbormaster and to repair or remove the mooring. If the mooring is properly labeled then the Harbormaster will try to contact the owner first by telephone and then by mail using the information provided on the renewal or application. If after 60 days the owner has not been identified or defects not been corrected a private contractor will note the GPS coordinates of the mooring and remove the float from the chain dropping the chain to the bottom. The float will then be turned over to the Harbormaster with the GPS coordinates of the remaining tackle. If the owner is not identified and all fees not paid by May 1 of the following year the private contractor shall have the float and shall retrieve the remaining tackle, within 30 days of notification, as that mooring will be listed as abandoned. Please note that it is the owner's responsibility to retrieve the dropped chain, using the original contractor and paying normal contractor rates, and not the responsibility of The Town or Harbormaster as the mooring was illegal. The GPS location of the removed mooring and tackle will then be offered to the next person on the waiting list.

(Code 1967, § 13-11-14)

**Sec. 14-115. Transfer of permits.**

~~Subject to review and approval by the commission, commercial mooring permits may be transferred to successor businesses or clubs. The standard for review shall be the ability of the proposed transferee to comply with sections of this article pertinent to commercial operators. Private mooring permits shall be transferred, upon request, to immediate family members defined as the mooring owner's spouse and/or legal children.~~

(1) At such time as an existing mooring becomes available for sale, the owner shall notify the harbormaster and provide proof of inspection within the last year. The harbormaster shall assign the space to the person next on the waiting list whose boat fits the mooring. The mooring owner may then sell the mooring gear in its location to this person; or, remove the mooring within ten days at the mooring owner's expense.

(2) Notwithstanding the above provision, a private mooring may transfer to an immediate family member (brother, sister, mother, father, spouse, children or grandchildren) upon written notice to the harbormaster which shall include the name and address change. Such transfers shall be strictly limited to a one time basis to those individuals holding a valid permit on the date that the CRMC approves the Town of Tiverton Harbor Management Plan and Town Ordinances. No immediate family member to whom a private mooring is transferred shall then be allowed to transfer that private mooring under any circumstance. Thereafter, all private moorings that are forfeited by or not renewed by a holder of a valid mooring permit shall be made available to individuals on the waiting list. This does not apply to riparian moorings.

(Code 1967, § 13-11-15)

Comment [DEV13]: Recommended change

**Sec. 114-116. Authorized mooring contractors.**

A list of town authorized mooring contractors will be kept and updated by the harbormaster and will be available to all mooring holders upon request. To be on this list the contractor must have a \$1,000,000.00 insurance binder for the Town of Tiverton. The contractor must also agree to abide by the Town's Rules and Regulations. After service or installation of a

mooring the contractor must send all information regarding the mooring to the harbormaster.

Minimum information to send if available is as follow:

- 1) MOORING NUMBER
- 2) INSPECTION DATE: \_\_\_\_\_
- 3) NAME OF INSPECTOR AND/OR COMPANY
- 4) ADDRESS OF INSPECTOR
- 5) MOORING OWNER NAME
- 6) MOORING OWNER ADDRESS
- 7) MOORING OWNER HOME PHONE
- 8) MOORING OWNER EMERGENCY NUMBER
- 9) GPS POSITION
- 10) OVERALL MOORING CONDITION
- 11) MOORING ANCHOR CONDITION
- 12) MOORING ANCHOR WEIGHT TYPE
- 13) LOWER CHAIN CONDITION
- 14) LOWER CHAIN SIZE and LENGTH
- 15) UPPER CHAIN CONDITION
- 16) UPPER CHAIN SIZE and LENGTH
- 17) FLOAT and PENNANT CONDITION
- 18) FLOAT and PENNANT SIZE and LENGTH
- 19) SHACKLES/SWIVELS/TOP GEAR
- 20) SHACKLES/SWIVELS/TOP GEAR SIZE and QUANTITY

**Sec. 14-117. Outhauls / Pulleys**

Outhauls are subject to the regulatory jurisdiction of the Harbormaster. The town authorizes the Harbormaster to administer an annual permit for a outhaul as long as it meets the following requirements:

- a. except as provided below, an outhaul(s) is/are to be permitted to the contiguous waterfront property owner; and,
- b. up to two (2) outhauls may be allowed per waterfront property; and,
- c. outhauls are not permitted on properties which contain a recreational boating facility; and,
- d. that permits are issued only consistent with the RICRMP, including the provisions of 300.18; and,
- e. the town acknowledges that the CRMC retains the authority to revoke any permits issued by the town if it finds that such permit conflicts with the RICRMP; and,
- f. from November 15 to April 15, when a boat is not being secured by the device on an annual basis, the outhaul cabling system shall be removed; and,
- g. outhauls may be "grandfathered" in their current location upon annual harbormaster documentation that such outhauls have been in continuous use at such location since 2004, and, the contiguous property owner(s) agree in writing to such, however, such "grandfathering" is extinguished whenever a recreational boating facility is approved at the location. |

**Comment [DEV14]:** CRMC edit – must regulate outhauls via ordinance, and the ordinance must be consistent with this language, taken from section 300.4 of the CRMC Redbook

**Sec. 14-118. Mooring area and Restrictions**

The Harbormaster will ensure that all moorings remain within their assigned mooring areas. Moorings that have migrated outside their assigned mooring areas will be moved, at the owner's expense, to within its designated mooring area. The Harbormaster will ensure that all mooring holders have a registered or documented vessel associated with their mooring. The vessel must be in the mooring holder or an immediate family member's name. If no vessel is associated with the mooring then the mooring owner will be required to give up their mooring location to the next person on the waiting list.

Comment [DEV15]: Recommended Change

**Secs. 14-119--14-130. Reserved.**

**Subdivision II.**

**Water Zones**

**Sec. 14-131. Purpose of division.**

The waters of the town shall be divided into zones for the purposes of managing the activities that occur in and on those waters.  
(Code 1967, § 13-12-1)

**Sec. 14-132. Mooring zones; generally.**

(a) *Basis of location.* Mooring zones are those waters of the town authorized for the placement of vessel moorings. Where possible, mooring zones shall not be located closer than 100 feet from the MHW along the shoreline and they shall be limited based upon the following:

- (1) The state department of environmental management water quality criteria, implementing the Interstate Shellfish Sanitation Conference formula.
- (2) The Coastal Resource Management Program, water type classifications.
- (3) The input of the citizens of the town.
- (4) The availability of parking and access.

(b) *Support data for determining the number of boats to be permitted in zones.* Support data shall be as follows:

- (1) The DEM Division of Water Resources has indicated that when determining the allowable number of boats in the Tiverton Basin and north to the Rhode Island/Massachusetts state line, all of the SB and SC waters can be included in the volume portion of the I.S.S.C. formula. This is a large volume of water, most of which is not suitable for the mooring of recreational or small commercial fishing boats. Therefore, when determining the appropriate number of boats allowed within a specified mooring area in the waters of the town, in order to ensure compliance with water quality guidelines, only the actual amount of water area included in the mooring zone was used in the I.S.S.C. formula.

**Secs. 14-178--14-190. Reserved.**

**Subdivision V.**

**Other Regulated Activities**

**Sec. 14-191. Vessel speed.**

No vessel shall operate within designated mooring areas, designated area North of the Tiverton Basin, and the Tiverton Basin at a speed which may cause a wash or wake likely to cause property damage or endanger people. In no event shall any boat exceed the speed limit of five miles per hour in any of the mooring areas listed in this section.  
(Code 1967, § 13-15-1)

**Sec. 14-192. Skiing, paragliding, surfboarding, wind-surfing, jet skis.**

No person shall operate or manipulate any vessel, tow rope or other device by which the direction or location of water skis, surfboard or similar device or any person thereon is deemed to be at risk to collide with or strike against any object or person. Under no circumstances will water-skiing, paragliding or jet skiing be permitted in the Tiverton Basin any mooring area or within 300 feet of the town beaches.  
(Code 1967, § 13-15-2)

**Comment [DEV16]:** Requested change

**Sec. 14-193. Swimming.**

Diving and/or swimming off all bridges is prohibited. Swimming in all channels, fairways, and within mooring areas is prohibited. The area west of Seapowet and Fogland Points present dangerous swimming conditions.  
(Code 1967, § 13-15-3)

**Comment [DEV17]:** Requested change

**Sec. 14-194. Discharge of refuse.**

It shall be a violation of this article to willfully discharge any refuse or waste matter, petroleum product or byproduct, paint, varnish, chemicals, dead animals, dead fish or other debris into harbor waters. Rhode Island is a NO DISCHARGE state.  
(Code 1967, § 13-15-4)

**Cross References:** Solid waste management, ch. 66.

**Sec. 14-195. Marine toilet and sewage discharge.**

Discharge of sewage or other contaminants from marine toilets or land-based outlets is prohibited in Rhode Island waters. In order to provide an acceptable method of sewage disposal from vessels, all commercial boatyards and marinas with five or more slips or moorings, or combination thereof, will have in place an effective and functional method of pumping out sewage stored on vessels. A plan for such a facility must be on file in the town hall and be in compliance with all current state regulations for such facilities. Fines for illegal sewage disposal into town waters will be established by the council and enforced by the town police department with the assistance of the harbormaster's staff. Periodic inspections of pump-out facilities will be conducted by the harbormaster's staff and faults shall be repaired within 14 days of a citation.

- (a) The town may provide a pump-out vessel for mooring holders and transient boaters. Transient boaters and mooring holders will be charged the state maximum fee allowed for this service. Persons occupying commercial moorings may elect to use

this service as a transient boater and pay the appropriate fee. If a town pump-out vessel is provided, the service will be approximately 6-12hrs a week weather permitting.

Comment [D18]: Recommended change

**Cross References:** Solid waste management, ch. 66.

**Sec. 14-196. Abandoned vessels.**

When, in the opinion of the harbormaster, a vessel has been abandoned in the waters of the town, the harbormaster may take custody and control of such vessel and remove it, store it or otherwise dispose of it, all at the expense and sole risk of the vessel owner. Reasonable notice of such disposal shall be publicly given. The harbormaster shall assume all of the duties and powers of the commissioner of wrecks and shipwrecked goods, as delineated in G.L. 1956, §§ 46-10-1--46-10-13.

(Code 1967, § 13-15-6)

**Cross References:** Junked, abandoned and inoperable vehicles, § 38-26 et seq.

**Sec. 14-197. Lines, rigging and halyards.**

Any unattended vessel at anchor or moored within the waters of the town shall have all lines, rigging and halyards secured according to sound seamanship practices so as to avoid coming loose and/or creating a noisy disturbance under ordinary circumstances.

(Code 1967, § 13-15-7)

**Sec. 14-198. Town boating facilities.**

Upon the establishment of a town boat ramp, dock, commercial fishing pier, or other public boating facility, this article authorizes the commission to establish rules, regulations and fees for the use of such facilities with the approval of the council and in compliance with appropriate state and federal law.

(Code 1967, § 13-15-8)

**Sec. 14-199. Special events.**

The commission, with the approval of the council, may authorize, in accordance with all appropriate state and federal guidelines, certain special events, such as swimming races, regattas or other marine and maritime activities, that may from time to time be held on or in the waters under the jurisdiction of the town.

(Code 1967, § 13-15-9)

**Sec. 14-200. Shallow water activities**

Wherever significant shallow water habitats are identified by the Council or Commission, the Harbormaster will restrict activities within that area to protect its fragile shallow water habitat.

Comment [DEV19]: Requested change

**Secs. 14-201--14-215. Reserved.**

**ARTICLE III.**

**REGULATION OF BOATS\***

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